IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIRST DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

-

WRIT PETITION NO : 17736 of 2004

Between:

Bandaru Jayadev S/o Late B. Giribabu
Door No. 2-55-6, 5th Road Sambhu Nagar, Rajahmundry, East Godvari District

..... PETITIONER

AND

1 The Sub-Divisional Police Officer, Rajahmundry, East Godavari District
2 The Inspector of Police, CCS, Rajahmundry, East Godavari district
3 The Station House Officer, I-Town P.S. Rajahmundry.
4 The Sub-Inspector of Police, CCS, Rajahmundry.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction, more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in opening of History/suspect sheet against the petitioner as well as insistence to supply the photographs for the purpose of display in the police Station at I town P.S., Rajahmundry, East Godavari district and continuing the same as highly illegal, arbitrary unjust improper and against to the Article 14, 19 and 21 of the Constitution of India and quite contrary to the A.P. Police Standing orders and violation of human rights and consequently direct the respondents to close the History/Suspect sheet of the petitioner as well as not to insist the petitioner to supply photographs for displaying in the police Station.

Counsel for the Petitioner:MR.BADANA.BHASKARA RAO

Counsel for the Respondents: GP FOR HOME

The Court made the following ORAL ORDER:

Heard the learned counsel for the petitioner and the learned Government Pleader for Home for the respondents.

This writ petition is filed by the petitioner to declare the action of the respondents in opening a suspect sheet against him as illegal, arbitrary and unjust. Petitioner also complains that the respondents are insisting that he should supply them his photographs for the purpose of display in the Police Station at
I-Town P.S., Rajahmundry and are also harassing him by asking him to come to the Police Station frequently.

According to the petitioner, he is running a cinema hall by name Laxmi Talkies on lease. In respect of this business, there are civil disputes between the petitioner's family and the Nidamarti family, Rajahmundry. About nine criminal cases were booked against the petitioner in various Police Stations. He was acquitted in all the nine cases in respect of alleged offences in the Districts of Visakhapatnam, West and East Godavary. The last of these acquittals is in S.C.No.107 of 2000 on the file of the learned Assistant Sessions Judge, Kovvur. The petitioner contends that despite his acquittal in all the cases and in the absence of any pending cases against him, the respondents have opened a suspect sheet against him on 24-01-2000 and are continuing to maintain the suspect sheet against him. This conduct of the respondents is challenged in this writ petition.

The third respondent has filed a counter-affidavit contending that the suspect sheet was opened in respect of the petitioner on 24-01-2000 on the directions of the Sub-Divisional Police Officer, Rajahmundry, for the petitioner's involvement in several criminal cases. It is also contended that mere acquittal in the criminal cases does not bar the Police Department to continue the suspect sheet. It is further pleaded by the third respondent that the suspect sheet against the petitioner is being continued from

time to time and latest, it was renewed on 05-01-2004 up to 31-12-2004. It is also pleaded that the respondents are keeping a watch on the petitioner on the basis of the suspect sheet.

This Court called for the records of the third respondent to ascertain whether any reasons have been recorded for continuing the suspect sheet against the petitioner.

From a perusal of the record relating to the maintenance of suspect sheet against the petitioner, it is apparent that there has been absolutely no application of mind by the respondents in the matter of continuing the suspect sheet against the petitioner. The petitioner has been continued on the suspect list almost as a matter of routine by the respondents. The following are some of the notings recorded by the respondents in support of the continuance of the suspect sheet against the petitioner.

In December 2001, the Sub-Inspector of Police, I-Town Police Station, Rajahmundry, noted that a suspect sheet was opened against the petitioner in the year 2000, he is young and active, he is present and active and a watch has been kept against his movement and that the orders may be issued to retain his history sheet up to 31-12-2001. This was forwarded to the Sub-Divisional Police Officer, Rajahmundry by the Inspector of Police, CCS Circle, Rajahmundry. On this, the Sub-Divisional Police Officer, Rajahmundry, recorded “renewed up to 31-12-2002”. Again, on
31-12-2002, the Sub-Inspector of Police, I-Town, CCs, Rajahmundry, recorded that the petitioner was involved in a case, in which, he was acquitted and he is living on business, he is young and active and hence, orders may be issued to retain the sheet up to 31-12-2003. On this, orders dated 05-02-2003 were passed to retain the suspect sheet for the year 2003. For similar inane reasons, the suspect sheet has been continued against the petitioner right up to the present. On 24-07-2004, the Sub-Inspector of Police, I-Town Police Station, Rajahmundry, recorded as under:

> *“checked the suspect at Laxmi Theatre and found him present. He is running Laxmi Theatre and maintaining his family. His movements are under watch.”*

Similar was the noting on 17-08-2004, 21-08-2004 and subsequently too. On 01-01-2005, again, it was recorded that since the petitioner is active and is suspected to be

involved in many theft and robbery cases in East Godavari and other Districts, a close watch is required on his movements and therefore, it was ordered to retain the history sheet against him. No particulars of the cases, in which, the petitioner is said to be involved in the various districts and in respect of which, he is said to have been involved in robbery cases, are mentioned.

Maintenance of a suspect sheet and surveillance of an individual seriously impairs a fundamental right to privacy. It cannot be done casually. Such interference is impermissible unless a countervailing and compelling governmental interest or public interest is demonstrated. One cannot be complacent that the power would be rationally exercised merely because the power inheres in a Sub-Inspector of Police, I-Town Police Station, Rajahmundry. If the respondents felt that continuance of a suspect sheet against the petitioner was warranted in public interest, they were obligated to disclose the facts and material on the basis of which, such satisfaction was arrived at. Nothing is on record to justify the exercise of power by the respondents. In the circumstances, the inference is irresistible that the satisfaction was arrived at perversely and without any material.

For the aforesaid reasons, the writ petition requires to be allowed and it is accordingly, allowed. Respondents are directed to close the suspect sheet against the petitioner forthwith. Respondents are liable to pay the petitioner costs in an amount of Rs.2,000/- (Rupees Two thousands only) for gross violation of his right to privacy.

The writ petition is accordingly allowed with costs.

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(GODA RAGHURAM, J)

1st February, 2005.

Kvni

The Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this, Tuesday, the first day of February, Two thousand and five.

REGISTRAR.

To

1 The Sub-Divisional Police Officer, Rajahmundry, East Godavari District
2 The Inspector of Police, CCS, Rajahmundry, East Godavari district
3 The Station House Officer, I-Town P.S. Rajahmundry.
4 The Sub-Inspector of Police, CCS, Rajahmundry.

5 Two CCs to the Government Pleader for Home, A.P.High Court Buildings, Hyderabad (OUT).

6 Two CD copies.